

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CHESTER THOMAS
Claimant

VS.

CITY OF WICHITA
Respondent
Self-Insured

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Docket Nos. 170,574
& 192,834

ORDER

Claimant appeals the post-award Order of Administrative Law Judge Nelsonna Potts Barnes dated December 20, 2000. Claimant's post-award motion for payment of outstanding medical bills was denied after the Administrative Law Judge found that the parties had entered into a settlement on April 9, 1999, as a full and final satisfaction of the February 23, 1998, award. Oral argument before the Board was held on June 8, 2001.

APPEARANCES

Claimant appeared by his attorney, Stephen J. Jones of Wichita, Kansas.
Respondent appeared by its attorney, Edward D. Heath, Jr., of Wichita, Kansas.

RECORD AND STIPULATIONS

The record consists of the transcript of the motion hearing held December 19, 2000, with the attached settlement hearing of April 9, 1999. In addition, the Appeals Board has considered the stipulations of the parties as noted at the time of the motion and settlement hearings.

ISSUES

Is claimant entitled to additional payments for outstanding medical bills awarded by the Administrative Law Judge at the time of the final award, but neither presented nor included by claimant at the time of the settlement hearing?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Administrative Law Judge Nelsonna Potts Barnes entered an Award in this matter on February 20, 1998, which was amended by the Nunc Pro Tunc Of An Award dated February 23, 1998. In that Award, it was stipulated that claimant had incurred medical expenses in the amount of \$1,359.44. The Award granted claimant entitlement to payment for all his medical expenses as a result of this injury and for future medical upon proper application.

On April 9, 1999, the parties appeared before the Honorable Bryce A. Abbott, Special Administrative Law Judge, in Wichita, Kansas, for a settlement hearing. As part of that settlement, the parties agreed that claimant would be paid a lump sum payment of \$85,633.16 in full and final satisfaction of the Award previously entered. No mention was made of any outstanding medical bills by either party. During the settlement hearing, the Court asked claimant if he understood that "if this settlement is approved, it will be a full, final and complete settlement and you won't be able to come back in to this case and ask for any additional benefits for any reason." Claimant answered "[y]es, sir, under the Workman's Comp Act, yes, sir." The funds were then transferred, and the matter concluded.

Claimant, thereafter, filed a motion with the Administrative Law Judge requesting the matter be reopened and the respondent be ordered to pay certain hospital/medical bills previously incurred with Wesley Medical Center.

It was acknowledged at oral argument that these bills were in existence and had been contested between the parties during the litigation of claimant's workers compensation case.

K.S.A. 44-531 (Ensley) allows for a payment of all or any part of compensation due under the Workers Compensation Act or under any award or judgment, where it has been determined at a hearing before the "director" that it is in the best interest of the injured employee to permit the employer to redeem all or part of the liability under the Workers Compensation Act by the payment of compensation in a lump sum.

K.S.A. 44-531(a) (Ensley) goes on to state,

Upon paying such lump sum the employer shall be released and discharged of and from all liability under the workmen's compensation act for that portion of the employer's liability redeemed under this section.

It is clear from the settlement hearing transcript that the parties intended this settlement to be a final and complete settlement of all issues based upon a lump sum

payment by respondent to claimant and his attorney in the amount of \$85,633.16. Claimant's attempt to reopen the matter and prove additional sums due and owing is prohibited by the language of K.S.A. 44-531(a) (Ensley).

The Appeals Board, therefore, finds that the Order of the Administrative Law Judge denying claimant's motion for payment of outstanding medical bills should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated December 20, 2000, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of June 2001.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Stephen J. Jones, Wichita, KS
Edward D. Heath, Jr., Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director